



## UNITED STATES PATENT AND TRADEMARK OFFICE

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

May 2, 2008

E. J. BROOKS & ASSOCIATES, PLLC  
SUITE 500  
1221 NICOLLET AVENUE  
MINNEAPOLIS, MN 55403  
US

Dear Sir/Madam,

Your refund request for 10687223 in the amount of \$88.00 has been denied.

### Notice Regarding Request for Refund of Excess Claims Fees

The Office published a final rule notice to provide that an applicant may request a refund of excess claims fees under 37 CFR 1.117. However, the United States District Court for the Eastern District Court of Virginia issued a decision on April 1, 2008, enjoining the USPTO from implementing the changes in the final rule notice. Therefore, the USPTO currently does not have the authority to act on any request for a refund of excess claims fees for canceled claims under 37 CFR 1.117 and provide any such refund.

Sincerely,  
  
Cynthia Streater  
Technical Center Others  
703 308-9010 x178

Attorney Docket No. 110.0010001  
Request for Refund dated October 23, 2007

Application No.	:	10/687,223	Confirmation No.:	2931
Applicant	:	Peter J. Kaehler, et al.		
Filed	:	October 15, 2003		
TC/A.U.	:	3626		
Examiner	:	Amber L. Altschul		
Docket	:	110.0010001		
Customer No.	:	38356		

MS 16  
Director of the US Patent and Trademark Office  
P.O. BOX 1450  
Alexandria, VA 22313-1450

#### **REQUEST FOR REFUND**

To Whom It May Concern:

In a separately filed Preliminary Amendment, Applicant canceled independent claims 13 and 16, as well as dependent claims 14-15, 17-18, 31, and 33-34 to bring the total claim count within 25 claims as required by 37 C.F.R. § 1.75(b)(1). No claims were added. Claims 1-12, 19-30, and 32 are pending in the present application.

As a result, Applicant respectfully requests refund of \$88.00, previously paid as a fee for an excess claim under 37 C.F.R. § 1.492. Applicant has included a copy of the check used to make the abovementioned payment to the United States Patent and Trademark Office, as well as a copy of the Patent Application Transmittal indicating the fee for excess claims.

Attorney Docket No. 110.0010001  
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**CONCLUSION**

Responsible parties are invited to telephone Applicant's attorney at (612)  
236-0120 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 C.F.R. §1.8:**

The undersigned hereby certifies that this  
correspondence is being transmitted to the  
United States Patent Office facsimile number  
(571) 273-6500 on

October 24, 2007

Name

Alison L. Suber

Signature

AL

Respectfully Submitted,  
Peter J. Kachler, et al.

By Applicants' Representatives,  
Brooks, Cameron & Huebsch, PLLC  
1221 Nicollet Avenue, Suite 500  
Minneapolis, MN 55403

By:

Edward J. Brooks III

Edward J. Brooks III  
Reg. No. 40,925

Date:

10/24/2007